

Entered on Docket

July 28, 2008

GLORIA L. FRANKLIN, CLERK
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA



Signed: July 25, 2008



LESLIE TCHAIKOVSKY
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT

NORTHERN DISTRICT OF CALIFORNIA

In re

No. 08-43157 TT

Chapter 7

R.S. No. MTD 570

NICOLAS ERNESTO GARCIA, BLANCA
LIDIA IRAHETA GARCIA,

Debtors.

MEMORANDUM RE MOTION FOR RELIEF FROM STAY

The motion of Mortgage Electronic Registration Systems, Inc. ("MERS") for relief from the automatic stay came on for hearing before the above-captioned Court on July 25, 2008 at 11:00 a.m. Appearances were stated on the record. The Court announced that it had some concerns, which it would set forth in writing, and continued the hearing to August 15, 2008 at 11:00 a.m. Those concerns are as follows:

The Court is informed that MERS has neither an equitable interest in the secured claims that form the basis for the motions it files in bankruptcy court nor any servicing obligations. The Court is informed that MERS simply provides the name in which the real

1 party in interest acts so that names need not be changed when the
2 underlying note changes hands.

3 In the instant case, the declaration is signed by an employee of
4 Countrywide Home Loans, Inc. ("Countrywide"), which is identified as
5 the loan servicer for MERS. The Court doubts that Countrywide is the
6 loan servicer for MERS. The note and deed of trust, copies of which
7 are attached to the declaration, identify the lender as Sierra
8 Pacific Mortgage Company, Inc.. No copies of any assignments of the
9 note and/or deed of trust are provided. The Court may not grant a
10 motion that is not filed in the name of the real party in interest
11 and has serious concerns about the filing of false sworn statements.

12 END OF DOCUMENT

COURT SERVICE LIST

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